IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO. 211 OF 2006

SHRI NILCONTA G. AMONKAR,
CURCHOREM GOA. ... Applicant

Versus

SHRI RAMESH M. BANDODKAR AND 8 ORS., ... Respondents

Mr. Nitin Sardessai, Advocate for the applicant.

Coram:- D. B. BHOSALE, J.

Date:- 29th November, 2007

P.C.

Heard Counsel for the applicant. By this application, the applicant has prayed for leave to appeal against the Judgment and Order dated 10.2.2007 passed by the learned Judicial Magistrate, First Class, Margao in Criminal Case No.219/P/2005/II and to hear the appeal on merits.

2. I perused the impugned Judgment. It appears that the alleged incident occurred on 4.7.94 at about 9.50 hours when the accused high-handedly entered the property of the complainant and threatened the complainant and his family members with dire consequences in case he failed to remove the garage. It is further alleged that the complainant and his son had seen personally the accused demolishing the garage. The accused were claiming right of way where the garage was either in existence or was being constructed by the complainant. The trial Court, after having considered the entire evidence on record, has held that the allegations made by the complainant against the accused that the accused committed offence on 4.7.94 at around 9.30 hours in front of the house of the complainant, have not been proved.

3. Mr. Nitin Sardessai, learned Counsel for the applicant submits that the trial Court has unnecessarily entered into an issue whether the garage was in existence or not and commented on the civil rights of the parties.

4. Merely because the trial Court has done so, that, by itself, cannot be a ground for grant of leave as prayed in the application. The findings recorded by the trial Court, in my opinion, in any case, cannot be called as perverse and the conclusions arrived at are possible and are based on the evidence on record.

5. In the circumstances, I find no reason to grant leave to appeal against the Judgment as prayed in the application. The application is dismissed.

D. B. BHOSALE, J.

ssm.